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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,442	03/07/2002	Masafumi Tsujimoto	001560-332	9751

7590

05/30/2003

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EXAMINER

NAVARRO, ALBERT MARK

ART UNIT

PAPER NUMBER

1645

DATE MAILED: 05/30/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
10/091,442

Applicant(s)  
Tsujimoto et al

Examiner  
Mark Navarro

Art Unit  
1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-31 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

Art Unit: 1645

*Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-15, 22-25, drawn to megakaryocyte differentiation polypeptides, classified in class 530, subclass 350.
  - II. Claims 16-21, 28-31, drawn to DNA, classified in class 536, subclass 23.1.
  - III. Claims 26-27, drawn to antibodies, classified in class 530, subclass 387.1.
2. The inventions are distinct, each from the other because of the following reasons:

Invention I drawn to polypeptides, and Invention II drawn to nucleic acids are distinct since they are products with different structure and biological properties. The protein is made of amino acids whereas the nucleic acid molecule consists of nucleotides. Further methods known in the art used to make the polypeptide require different reagents and parameters from the methods of making nucleic acid encoding the protein and the method of making the polypeptide does not require the nucleic acid. For instance, the protein can be made by Merrifield chemical synthesis or affinity chromatography.

Invention III drawn to an antibody is distinct from Inventions I-II since it has an inherent affinity, avidity, and specificity that DNA or a simple protein is not capable of expressing.

Art Unit: 1645

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their separate classification and their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

**Applicants attention is drawn to newly added claims 30-31 which recite "SEQ ID NO: 34." Applicants submitted paper copy of the sequence listing contains only 33 sequences, while the computer readable copy of the sequences (transferred from 09/140,719 as requested) contains 34 sequences. Clarification is required.**

Application/Control Number: 10/091,442

Page 4

Art Unit: 1645

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Navarro whose telephone number is (703) 306-3225.



Mark Navarro

Primary Examiner

May 27, 2003